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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,435	09/20/2005	Douglas McBain	OMNZ 2 00039 US	9981
27885	7590	01/15/2009		
Fay Sharpe LLP 1228 Euclid Avenue, 5th Floor The Halle Building Cleveland, OH 44115-1843			EXAMINER LIU, XUE H	
			ART UNIT 1791	PAPER NUMBER
			MAIL DATE 01/15/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/550,435	<b>Applicant(s)</b> MCBAIN ET AL.	
	<b>Examiner</b> XUE LIU	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 10-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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### **DETAILED ACTION**

1. Applicant's election without traverse of claims 1-9 in the reply filed on October 28, 2008 is acknowledged.

2. Claims 10-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on October 28, 2008.

3. Claims 1 and 6 have been amended. Claims 2-5 and 7-9 were previously presented. No new claims have been added.

### ***Specification***

4. Objection to the specification is withdrawn.

### ***Claim Objections***

5. Objection to claims 5-9 have been withdrawn.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "said runner portion" in lines 1-2 of the claim. There is insufficient antecedent basis for this limitation in the claim. For examining purposes, "said runner portion" is taken to mean "said runner portion".

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Keiji (JP 09 039024 A with English Abstract and Computer Translation).

Regarding claim 1, Keiji teaches a molding apparatus comprising mold member 1, 2 defining a plurality of fixed mold cavities 17, a first composition injector 10 fluidly connected to each of said plurality of mold cavities 17, and a second composition injector 9 having a single nozzle 13 fluidly connected to each of said plurality of mold cavities 17, said plurality of mold cavities 17 fluidly connected to said first composition injector 10 being the same as those fluidly connected to said second composition injector 9, said mold members 1, 2 and said injectors 9, 10 configured to injection mold and in-mold coat molded articles in said mold cavities 17 while said mold members 1, 2 remain a fixed distance apart relative to one another during and between injection molding an in-mold coating (see figs. 1-5). Whereas Keiji does not teach that the first composition injector 10 is for injection molding molded articles and the second composition injector 9 for in-mold coating molded articles, intended use has been continuously held not to be germane to determining the patentability of the apparatus, *In re Finsterwalder*, 168 USPQ 530.

Regarding claim 7, Keiji teaches that each of said plurality of mold cavities has a volume that remains fixed (see figs. 2-5 compared to figs. 7-10) throughout the introduction of materials through said first and second composition injectors.

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Regarding claim 9, Keiji teaches that the plurality of mold cavities 17 is fluidly connected to only a single first composition injector 10 and is fluidly connected to only a single second composition injector 9 (figs 1-2).

***Claim Rejections - 35 USC § 103***

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

11. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keiji (JP 09 039024 A with English Abstract and Computer Translation) in view of Arai (US 4,840,553).

Regarding claim 1, Keiji teaches a molding apparatus comprising mold members (1, 2) defining a plurality of fixed mold cavities 17, a first composition injector 9 fluidly connected to the plurality of mold cavities 17 for injection molding molded articles therein, and a second composition injector 10 having nozzles 6 fluidly connected to each of the plurality of mold cavities 17 for in-mold coating the molded articles in the plurality of mold cavities 17, said plurality of mold cavities 17 fluidly connected to said first composition injector 9 is the same as those fluidly connected to said second composition injector 10, the mold members (1, 2) and the injectors (9, 10) configured to injection mold and in-mold coat molded articles in the mold cavities 17 (see figures 1 & 2). As shown in figures 3-5, the mold members (1, 2) remain a fixed distance apart relative to one another during and between injection molding and in-mold coating. While Keiji teach a second composition injector with two nozzle each fluidly connected to one mold cavity instead of having a single nozzle fluidly connected to each of the plurality of mold cavities, Arai teaches a molding apparatus for molding multi-layer resin having first and second composition injectors 12A and 12B which share a common pathway to fluidly connected to the

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mold cavity 18A (see fig. 7). One of ordinary skill in the art would have found it obvious to provide the shared pathway of the first and second composition injectors as taught by Arai in the molding apparatus of Keiji since this would allow a second composition injector having a single nozzle to fluidly connect to a single or a plurality of mold cavities, thus eliminating the need for a second composition injector having a plurality of nozzles that individually connect to each of the plurality of mold cavities.

Regarding claim 2, Keiji teaches a sprue passageway 18 fluidly connected to the first composition injector 9 and a runner section 23 fluidly connected to the sprue passageway 18 and the plurality of mold cavities 17 (see fig. 1-2).

Regarding claim 3, Keiji teaches that the runner section 23 includes a plurality of portions fluidly connected to each of said plurality of mold cavities 17 at a plurality of inlet orifices (not shown) at the interface of the mold cavities (see fig. 2).

Regarding claim 4, Keiji teaches that the runner section includes a tapered portion adjacent the inlet orifices for allowing relatively easy removal of thermoplastic material formed in the runner section 23 from the molded articles formed in the plurality of mold cavities 17 (see fig. 2).

Regarding claim 5, Keiji does not teach a second injector passageway fluidly connected to said second composition injector and said runner section. However, Arai teaches a second injector passageway 16a<sub>1</sub> fluidly connected to a second composition injector 12A and a runner section 16a<sub>2</sub>, said second injector passageway 16a<sub>1</sub> having a section 16b which has a smaller cross-sectional area than said runner section 16a<sub>2</sub>, adjacent an intersection 16d between said second injector passageway and said runner section (see figs. 7-9).

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Regarding claim 6, Arai teaches that a portion of said runner section 16a<sub>2</sub> adjacent said intersection 16d is relatively flat (as shown in fig. 8). Neither Keiji nor Arai teach a runner section that is generally cylindrical. However, it has been held that a mere change in shape without affecting the functioning of the part would have been within the level of ordinary skill in the art, *In re Dailey et al.*, 149 USPQ 47; *Eskimo Pie Corp. v. Levous et al.*, 3 USPQ 23.

Regarding claim 7, Keiji teaches that each of said plurality of mold cavities has a volume that remains fixed (see figs. 2-5 compared to figs. 7-10) throughout the introduction of materials through said first and second composition injectors.

Regarding claim 8, Arai teaches that runner section 16a<sub>2</sub> includes a containment flange recess 16d for forming a containment flange that directs in-mold coating A injected from second composition injector 12A toward a plurality of mold cavities 18A (figs 7-8).

Regarding claim 9, Keiji teaches that the plurality of mold cavities 17 is fluidly connected to only a single first composition injector 9 and is fluidly connected to only a single second composition injector 10 (figs 1-2).

### ***Response to Arguments***

12. Applicant's arguments with respect to claims 1, 3 and 4 have been considered but are moot in view of the new ground(s) of rejection. With respect to the initial objection of claims 5-9, applicant did file a preliminary amendment on 9/20/05 which did change the dependency of claims 5-9 and added claims 11-19, but then filed a second preliminary amendment on 9/30/05 which changed the claims back to the multiple dependent form, and did not include claims 11-19, thus such should have been treated as an improper amendment. Since applicant did have a request presented for restriction as to claims 11-19, this action is being made non-final.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to XUE LIU whose telephone number is (571)270-5522. The examiner can normally be reached on Monday to Friday 9:30 - 6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Phillip Tucker can be reached on (571)272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/X. L./

Examiner, Art Unit 1791

/Philip C Tucker/

Supervisory Patent Examiner, Art Unit 1791